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DOMESTIC COMMODITY DISTRIBUTION AND FOOD ASSISTANCE ACT

MARCH 9 (legislative day MARCH 7), 1983.—Ordered to be printed

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Mr. HELMS, from the Committee on Agriculture, Nutrition, and Forestry, submitted the following

REPORT

[To accompany S. 17]

The Committee on Agriculture, Nutrition, and Forestry, to which was referred the bill (S. 17) to expand and improve the domestic commodity distribution program, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

SHORT EXPLANATION

S. 17, as amended by the Committee, authorizes a program that is supplemental to existing commodity donation programs to utilize existing surpluses of agricultural commodities held by the Commodity Credit Corporation to help meet the need for food to feed hungry persons in this country.

COMMITTEE AMENDMENT

The Committee amendment strikes all after the enacting clause and inserts in lieu thereof an amendment in the nature of a substitute.

SUMMARY OF MAJOR PROVISIONS

S. 17, as amended by the Committee, would—

(1) establish a 2-year program under which commodities acquired by the Commodity Credit Corporation, which the Secretary of Agriculture determines are in excess of quantities needed to carry out domestic donation programs, meet other domestic obligations (including payment-in-kind acreage diver-

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sion programs), and meet international market development and food aid commitments, shall be made available free of charge for use by eligible recipient agencies;

(2) define eligible recipient agencies to include public and nonprofit organizations (designated by the States or the Secretary and approved by the Secretary) that administer (a) activities and projects that provide emergency food assistance to needy persons, including low-income and unemployed persons; (b) school lunch programs, summer camps for children, and other child nutrition programs providing food service; (c) nutrition projects for the elderly; (d) activities and projects supported under section 4 of the Agriculture and Consumer Protection Act of 1973; (e) activities of charitable institutions, to the extent that needy persons are served; and (f) disaster relief programs;

(3) require that commodities be made available in a form suitable for institutional use, or in a form suitable for home use if requested by certain organizations providing emergency food assistance, with the Commodity Credit Corporation to pay the costs of processing and packaging the commodities into such forms;

(4) authorize up to 500,000 metric tons of wheat now in the food security wheat reserve to be used under this program, provided that any wheat so used be replaced in accordance with the provisions of current law before October 1, 1984;

(5) require the Secretary, as expeditiously as possible, to provide the commodities made available, in quantities that can be used without waste, to designated State agencies for subsequent distribution to eligible recipient agencies, except that the Secretary may make commodities available directly to recipient agencies;

(6) require State agencies, as expeditiously as possible, to distribute commodities received from the Secretary to eligible recipient agencies in the quantities requested by those agencies, except that, if a State agency is unable to satisfy all requests for a particular commodity, the State agency must give priority to organizations that provide emergency food assistance to needy persons, including low-income and unemployed persons;

(7) limit the amount of funds that may be used to carry out the program to not more than $100 million for each fiscal year, plus an amount equal to those storage and spoilage costs that the Secretary estimates would have been incurred in each fiscal year, but for the program; the cost of the commodities distributed would not count against this limit;

(8) require the Secretary to estimate and publish the types and quantities of commodities that are likely to be made available under the program;

(9) require the Secretary to encourage the consumption of commodities made available under any program administered by the Secretary by making agreements with private companies under which commodities would be processed into end food products for use by eligible recipient agencies, with the processing costs to be borne by the recipient agencies;

(10) require the Secretary to obtain assurances that (a) recipient agencies will provide the commodities received to persons served by the agencies and will not diminish their food purchases because of these donations and (b) commodity donations will not displace commercial sales of the commodities or their products;

(11) specify that the provisions in the Food Stamp Act of 1977 generally prohibiting the distribution of federally donated foods to household in jurisdictions where the food stamp program is in operation will not apply to this commodity distribution program;

(12) provide that commodities distributed under the bill will not be considered income or resources for any purposes under any Federal, State, or local law;

(13) make fraudulent misuse of commodities received under the bill subject to criminal penalties; and

(14) amend section 416 of the Agricultural Act of 1949 to give the Secretary discretionary authority to provide surplus Commodity Credit Corporation stocks of commodities to public or nonprofit post secondary schools, penal institutions, and Veterans Administration medical care facilities.

Background

COMMODITIES AVAILABLE

Although commodities used in various commodity donation programs are popularly spoken of as one broad category, there are two distinct types of commodities which are distributed by the U.S. Department of Agriculture. These types of commodities are acquired and donated under different authorities.

The first category of commodities are those which are acquired under the price support programs of the Department. These are commodities affected by S. 17, as reported by the Committee. The Department of Agriculture uses two principal methods of supporting farm prices: (1) nonrecourse loans to farmers and (2) Government purchases in commodities. In the case of nonrecourse loans, price-supported commodities are acquired by the Commodity Credit Corporation (CCC) when a farmer forfeits the crop used as collateral for the loan (generally when market prices are below the amount of the loan plus accrued interest).

The following are commodities which are "price supported" through nonrecourse loans and which may be acquired by the CCC: wheat, rice, barley, corn, grain sorghum, oats, rye, soybeans, honey, upland and extra long staple cotton, peanuts, tobacco, and sugar. (Only price-supported commodities which can be used for food use are covered by S. 17.) Section 416 of the Agricultural Act of 1949 authorizes donations of price-support commodities acquired by the CCC.

The second method of supporting commodity prices—through direct Government purchases in the market—is used primarily to support the price of milk.

In recent years, actual CCC acquisitions of price-supported commodities have been primarily dairy products. Approximately 67

percent of the $5 billion value of CCC stocks at the beginning of fiscal year 1983 were dairy products. Rice, wheat, corn, grain sorghum, soybeans, honey, and some nonfood commodities (e.g., cotton) comprised the remaining existing stocks held by the CCC. A substantial portion of price-supported commodities, especially corn and wheat, are held in farmer-held reserves and are not available to the CCC for donation.

The following table outlines commodities (currently committed and uncommitted) held by CCC for the week ending February 25, 1983:

CCC COMMODITY INVENTORY ACTIVITY FOR WEEK ENDING FEBRUARY 25, 1983 [1]

Commodity/million units [2]	Outstanding under loan (Feb. 23, 1983)	Farmer-owned reserve (Feb. 23, 1983)	Committed	CCC-owned inventory		Total
				Unavailable for disposition [3]	Available for disposition	
Butter (pound)	0	0	45.2	(4)	430.7	475.9
Cheese (pound)	0	0	64.9	(4)	783.3	848.2
Nonfat dry milk (pound)	0	0	179.5	(4)	1,163.0	1,342.5
Barley (bushel)	33.1	82.2	[5] 2.7	0.3	2.1	[6] 5.1
Corn (bushel)	307.2	2,600.1	[5] 44.3	14.4	401.1	[6] 459.9
Grain sorghum:						
(Bushel)	15.9	453.2	[5] 28.0	1.4	18.5	[6] 47.9
(Hundredweight)	(8.9)	(253.8)	(15.7)	(0.6)	(10.3)	[6] (26.6)
Oats (bushel)	5.4	4.3	0	0	0.7	[6] 0.7
Rye (bushel)	1.3	0	0	0	0.04	[6] 0.04
Soybeans (bushel)	378.0	0	0	1.1	16.0	[6] 17.1
Wheat (bushel)	95.5	1,109.5	[7] 147.0	5.3	34.1	[6] 186.4
Rice (hundredweight)	55.3	0	0	3.0	16.8	[6] 19.8
Honey (pound)	86.6	0	0	0	26.0	26.0
Upland cotton (bale)	6,987,900	0	0	0	86,576	86,576
Els cotton (bale)	75,300	0	0	0	4,013	4,013
Peanuts (pound)	[8] 175.5	0	0	0	0	0
Tobacco (pound)	[8] 767.7	0	0	0	0	0

[1] Open-market purchases for specific donations excluded.
[2] Cotton in single units.
[3] In transit, etc.
[4] Not available.
[5] Disaster reserve.
[6] As of Feb. 11, 1983.
[7] Food security wheat reserve.
[8] As of Feb. 18, 1983.

The second category of commodities donated by the Department are perishable agricultural commodites. The commodities in this category are primarily meat, poultry, fruits, and vegetables. Under section 32 of the Act of August 24, 1935, the Secretary of Agriculture is permitted to purchase perishable commodities to remove surpluses of those commodities in the markets. These commodities are subsequently donated, under section 32 and other authorities, to schools for use in the national school lunch program and to certain other regular Department of Agriculture feeding programs. These commodities are often described as "section 32 commodities" or "surplus removal" commodities, and are not affected by the provisions of S. 17, as reported, although it is intended that the existing policy of purchasing and donating specific surpluses under section 32 authority will continue.

THE EXISTING SYSTEM

Commodity donations for two types of outlets are mandated by law. The National School Lunch Act (section 6) requires that a minimum level of commodities (or, in some limited instances, cash in lieu of commodities) be provided to child nutrition programs. In fiscal year 1982, the minimum mandated level of commodity support for school lunch and child care food programs was 11 cents per meal served. Total Federal commodity support amounted to approximately $440 million in fiscal year 1982 (including approximately $30 million in cash in lieu of commodities). This was in addition to approximately $2.8 billion in cash assistance to the various child nutrition programs.

(NOTE.—Section 8 of the Child Nutrition Act of 1966 also specifically authorizes donation of commodities to schools. Section 14(a) of the National School Lunch Act permits the use of section 32 and CCC funds to purchase commodities for the school lunch program.)

In addition, section 311 of the Older Americans Act of 1965 requires that a minimum level of commodity support (or, cash in lieu of commodities) be provided to elderly nutrition projects assisted under the Act. In fiscal year 1982, the support level was 51.5 cents per meal served, and Federal assistance of this type totaled approximately $94 million, with the majority ($85 million) made up of cash in lieu of commodities.

Regular commodity support for other types of outlets is authorized by section 4 of the Agriculture and Consumer Protection Act of 1973. Under this authority, the Department of Agriculture is authorized, using direct appropriations, to purchase commodities to maintain traditional levels of commodity support for Indians, commodity supplemental food programs (serving women, infants, children, and the elderly), charitable institutions, summer camps for children, the Trust Territory of the Pacific Islands, and disaster areas. Section 32 of the Act of August 24, 1935, and section 416 of the Agricultural Act of 1949 supplement this authority by authorizing donations to these outlets of commodities acquired through surplus removal or price-support operations. Approximately $180 million in regularly programmed commodities were provided to these outlets in fiscal year 1982, including certain dairy donations to charitable institutions not charged to appropriations.

The commodities provided to these regular outlets are a mixture of section 32 commodities described earlier and those price-supported commodities acquired by the Commodity Credit Corporation. In fiscal year 1982, some 80 percent of the mandated commodities to schools and those provided to the outlets described above—$400 million of the $500 million total—was made up of section 32 commodities while the remainder was composed of price-supported commodities, such as dairy products, (wheat) flour, peanut butter, rice, and soybean oil, made available under section 416 of the Agricultural Act of 1949.

Commodities furnished under these authorities are usually referred to as mandated or entitlement commodities, particularly with reference to the commodities provided for the child nutrition programs, such as the national school lunch program.

In addition to the authorities requiring commodity donations, the Secretary has discretionary authority to donate what are termed "bonus commodities". These bonus commodities may consist of both section 32 commodities or those acquired by the CCC through its price-support activities.

Historically, the Secretary of Agriculture has chosen to donate bonus commodities to the same types of outlets or organizations that receive commodities under the mandated programs (i.e., schools and elderly nutrition projects) and those described as section 4 outlets—Indian tribes, the commodity supplemental food program, summer camps for children, disaster areas, and the Trust Territory of the Pacific Islands. As noted earlier, most mandated commodities are furnished from section 32 commodities. Most bonus commodities are furnished from price-supported commodities.

Section 1114 of the Agriculture and Food Act of 1981 provides additional authority to donate CCC-acquired commodities to child and elderly nutrition programs and to a new category of outlet: food banks serving needy persons.

Section 1335(a) of the same Act amends section 5 of the Agriculture and Consumr Protection Act of 1973 to provide for the establishment of two pilot projects to distribute food commodities to low-income elderly persons via the commodity supplemental food program.

Finally, section 110 of the Omnibus Budget Reconciliation Act of 1982 amended section 416 of the Agricultural Act of 1949 to allow the Secretary to donate CCC-held dairy products for aid to needy persons without regard to the type of outlet.

During fiscal year 1982, bonus commodity donations in excess of regularly programmed or mandated levels of support totaled about $800 million in value—over 500 million pounds of commodities. Approximately $300 million in bonus commodities (primarily section 416 commodities) were donated to regularly supported types of outlets—schools, elderly nutrition projects, etc. An additional $500 million in CCC-held dairy products (primarily cheese and butter) were donated to food banks, soup kitchens, and other outlets serving needy persons.

(NOTE.—Section 709 of the Food and Agriculture Act of 1965 authorizes the Secretary to use CCC funds to purchase sufficient supplies of dairy products for schools and certain other organizations when there are no surplus CCC dairy stocks. However, because of large surpluses of CCC dairy stocks in recent years, the authority is not being used.)

The donation of bonus CCC commodities, whether to regular outlets or to new special outlets such as food banks, is, as a practical matter, discretionary with the Secretary of Agriculture. Release of commodities held by the Commodity Credit Corporation under section 416 authority depends on the Secretary's judgment as to the potential for waste if they are not disposed of in normal channels or sold abroad, the possibility of displacing normal food purchases, and the effect this would have on the need for further price support acquisitions. Release of commodities held by the CCC under section 1114 of the Agriculture and Food Act of 1981 is required, but only for those CCC stocks of commodities that are, in the Secre-

tary's judgment, not likely to be sold or otherwise used in programs of commodity sale or distribution.

In effect, the Secretary has much discretion over when bonus commodities are donated, and the types and amounts to be donated, under the various provisions of present law.

In addition, discretionary authority for the Secretary to pay for processing, packaging, storing, and transporting bonus commodities is provided in the various authorizing laws. The Secretary has discretion over how much money will be spent for these purposes and typically pays for initial processing (e.g., wheat to flour), packaging (into usable sizes appropriate to the outlet), and storing and transporting to State-designated receiving points. The Secretary does not usually pay for end-product processing and packaging (e.g., flour to bread) of the storage and transportation costs within a State, unless large volumes of commodities are going to a particular final destination.

The Secretary's discretion to specify the types of outlets that may receive various bonus CCC commodities is controlled by legislation. Under the various laws authorizing commodity donations, CCC commodities of all types can, in effect, go to any type of outlet, regardless of whether the outlet is a meal-service program (e.g., schools, elderly nutrition projects, soup kitchens) or an outlet distributing food (not meals) directly to needy persons. However, section 4(b) of the Food Stamp Act of 1977 has the effect of dictating which outlets can get which commodities.

Section 4(b) prohibits the direct distribution of CCC commodities (as opposed to the institutional provision of commodity-supported meals) in areas where the food stamp program is in operation—i.e., virtually everywhere in the United States and its possessions. The prohibition has been waived by legislation only for (1) Indian reservations; (2) disaster relief projects; (3) commodity supplemental food programs; (4) food banks; and (5) dairy product distribution.

RECENT EFFORTS

The special dairy product distribution program was initiated by President Reagan on December 22, 1981, to reduce surplus inventories of cheese and butter in CCC storage. Under that program, cheese and butter are donated to needy persons through food banks and other outlets. State distribution agencies for the program determine the eligibility of the agencies carrying out the distribution and also the eligibility criteria for persons receiving the foods.

The initial allocation of cheese for the program was 30 million pounds. This amount was increased by 70 million pounds on March 9, 1982, and by another 120 million pounds on June 15, 1982, for a total of 220 million pounds in calendar year 1982. In addition, 50 million pounds of butter was authorized for similar distribution on July 23, 1982.

The special dairy product distribution program has been extended through calendar year 1983. The amount of cheese authorized for distribution in the program has been increased to 500 million pounds and the amount of butter authorized for distribution has been increased to 125 million pounds.

Through January 28, 1983, 183.3 million pounds of cheese—valued at $248 million—had been distributed since the program began. Another 101 million pounds has been ordered for distribution. Orders for distribution and actual deliveries account for 57 percent of the total cheese—500 million pounds—included in the announced distribution.

Again, through January 28, 1983, some 24.4 million pounds of butter had been distributed, valued at $39 million; an additional 56.9 million pounds had been ordered for distribution. Orders and deliveries account for 65 percent of the total reserved for distribution.

Three States—Washington, Minnesota, and Florida—have been participating in the nonfat dry milk distribution pilot program. Recently, distribution was expanded to include Wayne County (Detroit) Michigan. The Secretary has been analyzing data collected from the pilot areas to determine what effects the distribution of nonfat dry milk may have on local milk markets.

It is these kinds of efforts that the Committee intends S. 17 to expand.

Purpose and Need

NEED TO EXPAND DOMESTIC COMMODITY DISTRIBUTION

The purpose for this legislation is to establish an effective program to increase the amount of commodities owned by the Commodity Credit Corporation that are distributed for domestic nutrition purposes, particularly to emergency relief organizations providing assistance to needy persons.

The cornerstone of the program is to use existing surpluses as supplemental food assistance for needy persons during the current economically distressed period and for other nutrition programs historically assisted through commodity donations.

At the same time, the Committee emphasizes that this is a temporary program to utilize only those commodities that are in temporary surplus. It should not be the policy of the Federal Government to encourage the acquisition of surpluses that will dampen farm prices or to establish an expectation that such surpluses will be available in future years for distribution to organizations, though worthwhile, that are defined as eligible recipient agencies under the bill. During fiscal years 1983 and 1984, the program is meant to supplement the other feeding and nutrition programs operated by the Department of Agriculture, which are to remain the primary means of permanent Federal support for nutrition.

The program is designed to build upon existing, discretionary authority which the Secretary has been exercising in attempting to reduce the amount of commodities held by the CCC.

The Committee commends the voluntary and local public commitment that has been so important to the success of the special dairy product distribution program, and wants to provide for further expansion of these efforts with existing surplus commodities, including dairy.

REQUIREMENT FOR INCREASED COMMODITY DONATIONS

Concerns about the Secretary of Agriculture's existing discretionary authority to release CCC bonus commodities have centered around the contention that more and different commodities could be made available and distributed, especially to organizations and agencies serving the needy.

As noted earlier, approximately two-thirds of the commodities held by the Commodity Credit Corporation at the beginning of fiscal year 1983 were dairy products—cheese, butter, and nonfat dry milk.

S. 17, as reported by the Committee, outlines a priority system which the Secretary of Agriculture is to use in determining whether stocks of a particular commodity are in excess of quantities needed during the fiscal year, and therefore are required to be made available for purposes of domestic commodity distribution.

Under the bill, the Secretary is to assess the domestic obligations that are likely to be incurred during the fiscal year that will require use of CCC held commodities.

On January 11, 1983, the Secretary of Agriculture announced a payment-in-kind (PIK) land diversion program for the 1983 crops of wheat, corn, grain, sorghum, cotton, and rice. Under the program, a farmer who takes additional acres out of production over and above those which he agrees to take out under existing programs will receive, as payment, a certain amount of the commodity he would be expected to have grown on those PIK acres. Commodities for the PIK program will come from farmer-owned reserve, regular loan, or CCC-owned stocks.

The bill requires that the Secretary take into account a PIK land diversion program before determining what commodities are in surplus.

Additionally, the Secretary is to take account of the likely requirements of existing commodity distribution programs, such as those outlined in the background portion of this report.

Further, the Secretary is to assess the international market development commitments that may require the use of CCC-held commodities. For instance, the Secretary recently announced the sale of 1 million tons of wheat flour to Egypt. The sale arrangement involves the use of approximately 36 million bushels of CCC-owned wheat to reduce the effective price of the flour. The Committee marked up several bills on March 2 and 3 which contained export payment-in-kind provisions. These are the types of market development uses of commodities which would be encompassed in the Secretary's assessment.

The Secretary is to assess the international food aid commitments requiring CCC-held commodities. These would include commitments under P.L. 480.

Those commodities which the Secretary determines will not be needed to fulfill the obligations and commitments discussed above would be required to be made available for distribution under the provisions of S. 17. The Committee expects that S. 17 will result in an expansion of the types and amounts of commodities held by the Commodity Credit Corporation that are donated for domestic distribution.

S. 17 also permits the Secretary to process and distribute up to 500,000 tons of wheat from the food security wheat reserve if the CCC is unable to provide other wheat stocks for use for the commodity distribution program established by the bill. The food security wheat reserve currently contains 4 million tons of wheat which may be used for international humanitarian purposes.

If the Secretary does use wheat from the food security wheat reserve, the reserve must be replenished before October 1, 1984. The reserve may be replenished through designation of stocks of wheat acquired by the CCC or through purchase. However, if purchasing of wheat is the method used to replenish the reserve, use of funds for such purposes must be authorized in appropriation acts.

ELIGIBLE RECIPIENT AGENCIES

S. 17, as amended, provides that public or nonprofit organizations may be eligible to receive the available surplus commodities if such organizations administer—

(1) activities and projects providing nutrition assistance to relieve situations of emergency and distress through the provision of food to needy persons, including low-income and unemployed persons;

(2) school lunch programs, summer camps for children, and other child nutrition programs providing food service;

(3) nutrition projects operating under the Older Americans Act of 1965, including congregate nutrition sites and providers of home delivered meals;

(4) activities and projects that are supported under section 4 of the Agriculture and Consumer Protection Act of 1973 (these include the commodity supplemental food program as well as commodity distribution for the U.S. Trust Territory of the Pacific Islands and Indians);

(5) activities of charitable institutions, including hospitals and retirement homes, to the extent that needy persons are served; or

(6) disaster relief programs.

In addition to meeting the criteria outlined above, the organizations or agencies must be designated by the appropriate State agency, or by the Secretary, and be approved by the Secretary for participation in the commodity distribution program established in the bill. The Secretary may establish such approval criteria as he deems relevant for administration of the program. Designation or approval may be withdrawn from any agency which fails to meet, or fails to maintain, the established criteria.

Priority consideration in the distribution of commodities under the bill is to be given to organizations that administer activities and projects providing nutrition assistance to relieve situations of emergency and distress through the provision of food to needy persons, including low-income and unemployed persons. This is to be accomplished by requiring State agencies that coordinate commodity requests to give priority consideration to such organizations. Such organizations include nonprofit food banks, soup kitchens and churches and other private initiatives that serve needy persons.

As noted earlier, there is an extensive food distribution system already in place for the distribution of commodities authorized by other statutes. It is intended that existing State food distribution systems be used to the extent they can be used efficiently, rather than setting up a separate system for the additional commodities provided and distributed under the bill.

Generally, the commodities will be furnished to State agencies designated by the Governor or other appropriate State official for distribution to eligible recipient agencies. However, the Secretary may provide the commodities directly to the recipient agencies.

In addition to defining which organizations are eligible, the bill adds to existing discretionary authority by allowing the Secretary to provide surplus commodities to certain other institutions. Section 416 of the Agricultural Act of 1949 is amended to permit the Secretary to provide surplus commodities to public or nonprofit post secondary schools, penal institutions, and Veterans Administration medical care facilities. In a letter of February 15, 1983, to Senator Dole, Secretary of Agriculture John Block stated that the Department was preparing legislation to accomplish this objective.

FEDERAL COSTS

Commodities acquired by the Commodity Credit Corporation that the Secretary determines are in excess of other needs designated in the bill, and thus eligible for distribution under the bill, are typically in a form suitable for bulk storage. Some commodities are stored in the form the farmer produces them—that is, unprocessed grains. Dairy products are delivered to the Commodity Credit Corporation in forms suitable for bulk storage—e.g., cans of butter, 40 pound wheels of hard cheddar cheese, and 10 pound bags of nonfat dry milk. These commodities cannot be distributed for domestic consumption without some degree of processing or packaging.

According to the Department of Agriculture, the costs of processing or packaging dairy products, the major bonus commodity donated up to this point, into forms suitable for donation have averaged about 12.5 cents per pound. Some examples of the processing of dairy products include the processing and packaging of cheddar cheese into smaller packages of processed cheese, and the processing and packaging of nonfat dry milk into smaller packages of instantized nonfat dry milk which can be mixed with water for immediate use.

In existing commodity distribution programs, the Department has usually given away the commodity in processed form. However, this has not always been the case, and the Department has not been required to process the commodity before giving it away. S. 17, as reported, requires that the Department provide the commodities which are to be given away in forms suitable for institutional or home food use and to pay for the necessary processing. To the extent that the commodities are to be used by institutions, such as schools, the commodities shall be furnished in forms suitable for institutional use. At the option of those organizations that provide food assistance to needy persons, including low-income and unemployed persons, the Department will be required to process or package such commodiies into units suitable for home use. The Depart-

ment will also pay these processing or packaging costs. The following table outlines recent costs of CCC commodities.

FEDERALLY SUPPORTED COMMODITIES AND ASSOCIATED PROCESSING COSTS

	Repackaging or reprocessing cost
Cheddar cheese	$0.12 per pound.
Butter	$0.05 per pound.
Nonfat dry milk	$0.14 per pound.
Wheat	$4.50 per hundredweight for 5/10/25 lb bags.
Corn	$4.50 per hundredweight for 5/10/25 lb bags.
Rice	$4.50 per hundredweight for 5/10/25 lb bags.
Honey	$0.15 per pound (5 lb can).
Soybeans	$0.12 per pound (1 gal can).

Source: U.S. Department of Agriculture.

The Secretary of Agriculture is also to pay the costs of transporting the commodities to State-designated distribution points for subsequent distribution to eligible recipient agencies. The Agricultural Stabilization and Conservation Service (ASCS) estimates that under the current commodity distribution programs the Department spends about 5 cents for the transportation of each pound of CCC commodities which is delivered to the States.

The Department's total cost to carry out the program under the bill is not to exceed $100 million per year, plus an amount equal to the savings in storage and spoilage costs which the Secretary estimates will be achieved each year by reason of donations under the bill. Storage costs vary among commodities because of a number of factors, including whether the commodity requires refrigeration and the size or form of the bulk storage. According to the Department, storage costs amount to approximately .7 cents per pound per year.

Under existing commodity distribution programs, including the special dairy distribution and section 416 commodity donations to schools, the Department of Agriculture typically ships surplus food commodities to central distribution points in States at no cost to the States. Under S. 17, this procedure would continue. State distributing agencies which have been designated by the State Governor, the State legislature, or by proper Federal authorities, and approved by the Department, enter into agreements with the Department whereby they arrange for further storage, transportation, and distribution to the eligible recipient agencies within the States. These further costs are generally borne by the States or the recipient agencies.

S. 17, as introduced, would have established a formula for providing Federal payment of the costs of distribution within the States. During mark-up of the bill, Deputy Secretary of Agriculture Richard Lyng, representing the Administration, voiced opposition to the suggestions that the Department be required to assume these costs. He pointed out that States and volunteer organizations have responded well to the special dairy product distribution program, in which they bore the costs of distribution within the States. Several Committee members expressed concern that additional bureaucracy would result from the introduction of Federal funding for local distribution costs. They also indicated that local agencies, including

volunteer agencies, were doing a commendable job which should be encouraged and continued.

Secretary Lyng pointed out that the Department pays for the commodity provided, the initial processing, and the transportation to the States, and he stated further that this should be a sufficient Federal contribution. Secretary Lyng noted that, in the special dairy product distribution, it is the Department's current practice to deliver without charge, a full truckload of cheese, which is comprised of 36,000 pounds, to individual recipient agencies that can handle that quantity. He noted that the Department "probably would deliver 18,000 or 12,000 pounds" to such individual agencies. He also pointed out that Federal assumption of the costs for distribution within the States would reduce the amount of money available to pay for processing of the commodities made available under the bill. Several Senators stated that the $100 million should be used, to the maximum extent possible, to pay for processing and distributing commodities to the States, in order to maximize the amount of commodities which could be made available for distribution.

The Committee agreed to delete the provision requiring Federal payments to the States to cover distribution costs within the States. Therefore, expenses for distribution within States, are not generally covered under S. 17, as reported. However, the Secretary may use funds to pay the costs associated with transporting large quantities of commodities to individual participating agencies or organizations, as he does in other commodity distribution programs. Additionally, the Secretary may, in his discretion, use CCC funds not needed for Federal costs or that he determines appropriate (within the $100 million ceiling) to make payments to States and eligible recipient agencies for storage and distribution expenses incurred within the States.

SUBSTITUTION OR DISPLACEMENT IMPACT

An important purpose of S. 17, in addition to providing food to needy persons, is to assist in reducing Government stocks of price-supported commodities by distributing such commodities to outlets, and ultimately to individuals, who would not otherwise purchase them. Several safeguards have been included in the bill to ensure that the commodity distribution program meets this objective, rather than resulting in the displacement of food which would otherwise be purchased. If displacement or substitution occurs, there will be no net reduction in Government held stocks.

For example, if a recipient agency or individual recipient that currently purchases $40 worth of a commodity per month were provided the same amount of the commodity, and this is the only amount of the commodity that is desired, the program merely supplants normal market purchases of the commodity. Because the CCC stands ready to buy future dairy surpluses or to acquire other commodities through price-support activities, the Government may simply give away commodities with one hand and be forced to purchase or acquire additional stocks with the other.

The impact on agriculture of donating surplus commodities to needy households and organizations depends upon (1) whether do-

nated commodities displace commodity purchases by the intended recipients or (2) whether the donated commodities increase the food consumption of recipient households and organizations.

Displacement of commercial sales of commodities distributed under S. 17 is a concern of the Committee. The bill requires the Secretary to obtain such assurances as he deems necessary that recipient agencies will not diminish their normal expenditures for food by reason of the commodity donations made under the bill. The Secretary is also to obtain such assurances as he deems necessary that commodity donations (to organizations or through organizations to individuals) will not displace commercial sales of such commodities or the products thereof.

Under a provision of the bill requiring the Secretary to pay for processing the commodities into a form suitable for institutional or home food use, the Secretary is permitted to pay for such processing "in kind"—that is, through payment in commodities to the processors. However, in so doing, the Secretary is to ensure that such payments-in-kind will not displace commercial sales of such commodities. The Committee accepted assurances from the Department of Agriculture that it would continue to move cautiously in providing payments-in-kind to commodity processors.

WAIVER OF FOOD STAMP ACT PROHIBITIONS

Under the Food Stamp Act of 1977, a commodity distribution program may not operate in areas in which the food stamp program is in effect. As noted in the background portion of this report, this situation has been waived by legislation only in the cases of Indian reservations, disaster relief, commodity supplemental food programs, food banks receiving CCC commodities, and the special dairy product distribution program, thereby limiting the types of outlets that may participate in commodity distribution activities.

S. 17 includes a provision to exempt this new program from the prohibition contained in the Food Stamp Act of 1977 and, in so doing, expands the types of outlets that may receive bonus commodities. Under the bill, commodities furnished to individuals may be granted in addition to any available food stamp benefits. As noted earlier, the Committee intends that this new program be a temporary complement to existing programs, including the food stamp program.

In addition, the bill includes language, similar to that in the Food Stamp Act of 1977, which states that the commodities received shall not be treated as income or resources under any Federal, State, or local law.

PENALTIES FOR WRONGDOING

During mark-up of the bill, several Senators expressed concern that commodities distributed under the bill would not reach the intended eligible recipients, but rather might be diverted for financial gain by agencies and other individuals. Concerns were expressed that abuses exist in the present special dairy distribution program.

As reported by the Committee, S. 17 contains antifraud criminal penalties to discourage this type of abuse and to penalize those who

might engage in it. The penalties applicable to commodities distributed under the bill are the same as those applicable to other commodity distribution programs operated by the Secretary of Agriculture. These penalties are included within the Agriculture and Consumer Protection Act of 1973, as amended by the Agriculture and Food Act of 1981.

These penalties include a fine of up to $1,000 or imprisonment for up to 1 year, or both, for wrongdoing in obtaining or using commodities valued at less than $100 and a fine of up to $10,000 or imprisonment for up to 5 years, or both, for wrongdoing in obtaining or using commodities valued at $100 or more.

PROCESSING AGREEMENTS

In most States, State agencies that receive commodities on behalf of existing recipient agencies, primarily schools, enter into inventory agreements or contracts with companies that process the commodities received into a more usable end product.

For example, cheese distributed to the agency can be processed, in combination with other ingredients, for use in the school lunch program into the form of pizza or tacos, according to testimony received by the Nutrition Subcommittee.

However, some States have not established such processing agreements. In the absence of such agreements, commodities often are not requested, or if requested, the commodities are delivered to the State agencies which then distribute them to the schools. Schools in these States have sought to enter into such inventory agreements with the Federal Government. Under such contracts, the commodities could be delivered first to the processor, thereby saving transportation and storage costs currently incurred by the States or the schools.

The Secretary of Agriculture announced his intention to implement such a plan in May of 1982. However, regulations to permit such processing agreements have not been issued. The Committee supported the establishment of such agreements in legislation, S. 3074, last fall, which did not pass the Senate during the post-election session of the 97th Congress.

Such agreements may be used at the option of the State agency, with the processing costs to be borne by the recipient agencies. Such processing agreements would provide schools and institutions with additional options for using free, bonus commodities, including, but not limited to, those provided under S. 17. The provision places no obligation on individual schools or States. It is expected that this system will result in an expansion of surplus commodity usage and would benefit many participants in all the Department's food assistance programs.

COMMITTEE CONSIDERATION

HEARINGS

On February 15, 1983, a hearing on S. 17, the Domestic Commodity Distribution and Food Assistance Act, was held before the Subcommittee on Nutrition.

In his opening statement, Subcommittee Chairman Robert Dole explained that S. 17 would make surplus commodities owned by the Commodity Credit Corporation available to needy Americans through distribution to eligible recipient agencies. Senator Dole summarized other provisions of the bill, as introduced, which included Federal payment of the costs of distributing donated commodities and the inclusion of all surplus CCC-owned commodities for use in the program. Also, under the legislation, the Secretary would be required to inform State agencies as to the availability of commodities on a regular basis.

Senator Pete Wilson testified in support of S. 17, stating that it addresses several problems simultaneously. First, the cost of storage and the possibility of spoilage is averted by distribution of the surplus food to those in need. Second, the number of institutions that would be eligible to receive commodities is increased, thereby expanding the number of needy people who will be reached. Third, it provides administrative money to aid the States in the distribution process. Finally, reduction of the surplus contributes to the recovery of American agriculture.

Senator Dole then called on a panel of witnesses representing commodity organizations. This panel included Susan Fridy of the National Milk Producers Federation, Margie Williams of the National Association of Wheat Growers, and James Miller of the National Grange. All panel members testified in support of S. 17.

Ms. Fridy made three points in her testimony. She emphasized the importance of the bill in expanding the number of agencies eligible to receive commodities, thus aiding in reaching the needy; the need for other commodities in addition to dairy products to be made available for the bonus distribution program (as the bill does) in order to hasten economic recovery for agriculture; and support for Federal administrative money for State and local distribution costs. She testified that volunteer agencies are getting to the point where they cannot afford to pick up the distribution costs, as evidenced by the surplus cheese disposal program.

Margie Williams testified that strengthened child nutrition and other feeding programs are a logical complement to supply management programs. Specifically, she commented that the National Association of Wheat Growers supports provisions of S. 17 which would designate wheat as a bonus commodity and authorize the use of up to 2 million metric tons of wheat in the food security wheat reserve for the commodity distribution program. The reserve would be replenished at a later time. Ms. Williams also testified that immediate distribution of wheat and other surplus commodities would strengthen farm prices.

James Miller of the National Grange testified that S. 17 is a balanced approach to commodities distribution.

In questioning, Senator Dole asked if additional donations would displace commercial sales. Ms. Fridy answered that the donation of dairy products under the current distribution programs has not resulted in any evidence of such displacement, and in fact, there were some instances of increased sales of cheese.

In further questioning of the panel, Senator Melcher noted that the Secretary currently has authority to donate "bonus" commodities as he deems necessary. He also questioned the Federal pay-

ment of State distribution costs noting that the States should be capable of handling the funding necessary to get the commodity from the warehouse to the recipient agency. He expressed the concern that States might delay the distribution process while waiting for CCC transportation funds.

Senator Dole noted that a letter from Secretary of Agriculture, Jack Block, indicated that 45 States have provided full or partial funding of intrastate delivery costs of the dairy distribution program, and that this program demonstrates the tremendous resource of voluntarism. Senator Dole stated that it was not the intent of S. 17 to undermine this voluntary effort.

Senator Dole then called the second panel of witnesses who represented the eligible recipient agencies. Panelists included Barbara Temple of the Greater Philadelphia Food Bank; Marshall Matz, representing the American School Food Service Association; Ellen Haas of Public Voice for Food and Health Policy; Matthew Ahmann of the National Conference of Catholic Charities; Becky Kragh and Josephine Sykes of Bread for the City; and Sandy McMurtrie of the Mission of Charity Soup Kitchen.

As the nonprofit organizations responsible for distribution to the needy, all witnesses testified in support of S. 17. They stressed the need for additional commodities ready for home use; the importance of Federal funds for distribution; the necessity for advance knowledge of what products would be available at a certain time to facilitate local planning; and cautioned that a stronger commodity distribution program should not be considered a substitute for the food stamp program, nor should it count as income against eligibility for welfare programs.

Both Mr. Matz and Ms. Haas emphasized the need for the provision in the bill directing the Commodity Credit Corporation to pay for the cost of processing commodities into forms suitable for home or institutional use, which would make the food donated more readily available for consumption. In questioning, Senator Hawkins and Senator Pryor pursued this point asking about processing costs as well as the practicality of family use for bulk commodities. There was general agreement that certain commodities be processed in order to be of practical use to the recipient.

Mr. Matz also stressed the importance of the provision in section 6 of S. 17 that would require the Secretary of Agriculture to develop a system that would make it easier for schools for access to commodity processing.

Mr. Ahmann of the National Conference of Catholic Charities suggested that the section which enumerates eligible agencies be more tightly drafted in order to safeguard against abuse and assure accountability. He also indicated there is a need for a provision requiring that commodity benefits not be counted as income or resources in other programs.

The final panel consisted of Lee Stambaugh, representing the National Association of State Agencies for Food Distribution and Daryl Gray of the Affiliated Food Processors Association.

Mr. Gray emphasized the need for the bill's processing provision in order to distribute food that is usable for family preparation. He also supported the so-called private sector inventory system provided for in section 6. Under this provision, processors could re-

ceive donated commodities and process them into end products for use by eligible agencies. Processors would have to reduce the cost of the product by the value of the donated commodity and would be responsible for storing the product until it is sold to an eligible recipient agency. He commented that companies are currently contracting with individual States, but that S. 17 would simplify the process by establishing one general agreement with the Department of Agriculture rather than the possibility of 50 different processing contracts with individuals States. Such a general agreement would encourage companies to participate and help move greater quantities of surplus commodities.

Mr. Stambaugh testified that his organization serves as the link between the Department of Agriculture and the State agencies. He testified that his organization supports S. 17 for two reasons. First, it establishes a clear cut policy with regard to the commodity distribution program. Current distribution efforts have been hampered by uncertainty of the program's operation. Secondly, he supported the Federal payment of State distribution costs, the lack of which he believes has been a major handicap.

Following conclusion of the testimony, Senator Dole placed in the record statements in support of S. 17 by Senators Pryor, Huddleston, Jepsen, and Domenici.

MARKUP

The Subcommittee on Nutrition reported S. 17 to the full Committee on February 16, 1983.

The full Committee met to consider S. 17 on March 2 and 3, 1983.

At the outset of mark-up consideration, the Committee had before it a substitute amendment offered by Senator Dole for the original S. 17.

Deputy Secretary of Agriculture, Richard Lyng, was called upon to outline the Administration's position on the legislation. He indicated that the Administration preferred to see more discretion granted to the Secretary of Agriculture in determining what level of commodities would be in surplus under the "trigger mechanism" of the bill.

He added that the Administration preferred to define eligible recipient agencies in a way more consistent with the types of organizations eligible for commodities under existing law.

He also indicated that the Administration was strongly opposed to Federal payments to States for purposes of reimbursing States for local distribution and storage costs.

The Committee accepted the Administration's recommendation for a somewhat tighter definition of eligible agencies. The Committee also provided a greater degree of flexibility for the Secretary in determining what commodities would be declared surplus. Under the provisions of S. 17, as reported by the Committee, the Secretary is to consider domestic obligations and international market development and food aid commitments prior to determining the surplus available to be distributed.

The Committee also deleted the provision requiring Federal payments for distribution within the States, put a cap of $100 million per year (plus savings from storage and spoilage costs) on the Fed-

eral cost of the bill, and provided that the program would terminate in 2 years.

Several Senators expressed concerns about the possibility of abuse of the program. The substitute included provisions, however, to address these concerns by providing that abuses of this program would be treated the same as abuses of existing commodity distribution programs.

The Committee decided that replenishment of the food security wheat reserve, if used for purposes of the bill, would be accomplished in the same way that had been included in legislation marked up separately by the Committee dealing with export market development. That provision provides for replenishment by designation of existing CCC stocks or, subject to appropriation, by purchases in the market.

The Committee also incorporated a provision to ensure that the commodities not be counted as income in other programs.

Additional discussion centered on concerns expressed by Committee members that the Secretary expedite implementation of the new program, and that safeguards be included in the bill, and enforced by the Secretary, to ensure that commodity donations made under the new program do not displace commercial sales. Secretary Lyng assured the Committee that the Administration would move promptly to implement the expanded commodity distribution program. John Bode, Deputy Assistant Secretary for Food and Consumer Services, indicated that the Administration would closely monitor the displacement question.

Senator Dole expressed concern that food banks, soup kitchens, and other charitable organizations be able to benefit from the assistance provided, in accordance with intent of S. 17, as introduced, and reserved his right to amend the legislation as reported from the Committee to make certain that this purpose if fulfilled.

S. 17, as amended by the Committee, was ordered reported to the Senate by a voice vote.

Section-by-Section Analysis

SHORT TITLE

Section 1 provides that the bill may be cited as the "Domestic Commodity Distribution and Food Assistance Act".

AVAILABILITY OF CCC COMMODITIES

Section 2(a) prividing that the Secretary of Agriculture shall make certain Commodity Credit Corporation commodities available for use by eligible recipient agencies. Those commodities which shall be made available are those acquired by the Commodity Credit Corporation which the Secretary, in his discretion, determines are in excess of quantities needed during the fiscal year to (a) carry out domestic donation programs, (b) meet other domestic obligations (including quantities needed to carry out a payment-in-kind acreage diversion program), and (c) meet international market development and food aid commitments.

Section 2(b) provides that commodities made available for use by eligible recipient agencies shall be provided upon request, without

charge or credit, and in a form suitable for institutional food use, except that commodities made available for use by organizations that relieve situations of emergency and distress through the provision of food to needy persons, including low-income and unemployed persons, shall, upon request, be provided in a form suitable for individual household food use.

Section 2(c) provides that, with respect to commodities made available under the bill, the Commodity Credit Corporation shall pay the costs of initial processing and packaging of such commodities into forms suitable for institutional or home use. The Corporation may pay such costs by providing commodities equal in value to the processing and packaging costs. The Secretary shall ensure that such payments-in-kind will not displace commercial sales of such commodities.

Section 2(d) provides that, not later than 45 days after the date of enactment of the bill, the Secretary shall publish in the Federal Register an estimate of the types and quantities of commodities that the Secretary anticipates are likely to be made available for use by eligible recipient agencies during fiscal year 1983. Prior to the beginning of the next fiscal year, the Secretary shall publish such an estimate with respect to the commodities that the Secretary anticipates are likely to be made available for use during such fiscal year.

Section 2(e) provides that, if wheat stocks acquired by the Commodity Credit Corporation are not available for purposes of the bill, the Secretary may use up to 500,000 metric tons of wheat from the food security wheat reserve for purposes of the bill. Any wheat from the food security wheat reserve used for this purpose must be replenished with an equivalent quantity of wheat in accordance with the provisions of section 302(b) of the Food Security Wheat Reserve Act of 1980 by such date as is practicable, but before October 1, 1984. Under section 302(b) of the Food Security Wheat Reserve Act of 1980, the reserve may be replenished through designation of existing stocks of wheat acquired by the Commodity Credit Corporation or through purchases. However, use of funds for purchases of wheat to replenish the food security wheat reserve must be authorized in appropriation Acts.

ELIGIBLE RECIPIENT AGENCIES

Section 3 defines eligible recipient agencies as public or nonprofit organizations that administer—

(1) activities and projects providing nutrition assistance to relieve situations of emergency and distress through the provision of food to needy persons, including low-income and unemployed persons;

(2) school lunch programs, summer camps for children, and other child nutrition programs providing food service;

(3) nutrition projects operating under the Older Americans Act of 1965, including congregate nutrition sites and providers of home delivered meals;

(4) activities and projects that are supported under section 4 of the Agriculture and Consumer Protection Act of 1973;

(5) activities of charitable institutions, including hospitals and retirement homes, to the extent that needy persons are served; or

(6) disaster relief programs;

and that have been designated by the appropriate State agency, or by the Secretary, and approved by the Secretary for participation in the commodity distribution program established under the bill.

FEDERAL AND STATE RESPONSIBILITIES

Section 4(a) provides that the Secretary shall, as expeditiously as possible, provide the commodities made available under the bill in such quantities as can be used without waste. These commodities shall be provided to State agencies designated by the Governor or other appropriate State official for distribution to eligible recipient agencies, except that the Secretary may provide such commodities directly to eligible recipient agencies and to private companies that process such commodities for eligible recipient agencies under section 6 of the bill.

Section 4(b) provides that each State agency receiving commodities under the provisions of the bill shall, as expeditiously as possible, distribute those commodities in the quantities requested to eligible recipient agencies within the State. If a State agency cannot meet all requests for a particular commodity distributed to it under the bill, the State agency shall give priority to requests from nonprofit organizations that relieve situations of emergency and distress through the provision of food to needy persons, including low-income and unemployed persons.

Section 4(b) also gives the Secretary discretionary authority to pay the storage and distribution costs associated with the intrastate distribution of these commodities.

Section 4(c) provides that the Secretary shall, to the maximum extent practicable, minimize the regulatory, recordkeeping, and paperwork requirements which the Secretary may impose on eligible recipient agencies.

LIMITATION ON FEDERAL EXPENDITURES

Section 5 provides that, to the extent practicable, the Secretary shall carry out the program established under the bill through the Commodity Credit Corporation. The section further provides that not more then $100,000,000 in each fiscal year, plus an amount equal to those storage and spoilage costs the Secretary estimates would have been incurred in each fiscal year but for this program, may be used to carry out this program. This limitation on expenditures would not include the cost of the commodities provided under the bill.

PROCESSING AGREEMENTS

Section 6 provides that, whenever a commodity is made available without charge or credit under any nutrition program administered by the Secretary, the Secretary shall encourage consumption thereof through agreements with private companies under which the commodity is processed into end-food products for use by eligi-

ble recipient agencies, with the expense of the processing to be borne by the recipient agencies.

PROGRAM SAFEGUARDS

Section 7(a) provides that the Secretary shall obtain such assurances as the Secretary deems necessary that any eligible recipient agency receiving commodities under the bill will provide such commodities to persons served by the recipient agency and will not diminish its normal expenditures for food by reason of the receipt of such commodities. The Secretary shall also obtain such assurances as the Secretary deems necessary that commodities made available under the bill will not displace commercial sales of such commodities or the products thereof.

Section 7(b) provides that commodities provided under the bill shall be distributed only in quantities that can be consumed without waste. No eligible recipient agency may receive commodities under the bill in excess of anticipated usage, based on inventory records and controls, or in excess of its ability to accept and store such commodities.

RELATIONSHIP TO THE FOOD STAMP ACT OF 1977

Section 8 provides that section 4(b) of the Food Stamp Act of 1977 shall not preclude the commodity distribution program authorized under the bill. Section 4(b) prohibits, with certain exceptions, the distribution of federally donated foods to households in jurisdictions where the food stamp program is in operation.

COMMODITIES NOT TREATED AS INCOME

Section 9 provides that, notwithstanding any other provision of law, commodities distributed under the bill shall not be considered income or resources for any purpose under any Federal, State, or local law.

PENALTIES FOR MISUSE OF COMMODITIES

Section 10 amends section 4(c) of the Agriculture and Consumer Protection Act of 1973 to make fraudulent misuse of commodities or funds received under the bill subject to criminal penalties.

AMENDMENT TO THE AGRICULTURAL ACT OF 1949

Section 11 amends section 416 of the Agricultural Act of 1949 to give the Secretary discretionary authority to donate surplus Commodity Credit Corporation stocks of commodities to public or nonprofit postsecondary schools, penal institutions, and Veterans Administration medical care facilities.

PROGRAM TERMINATION

Section 12 provides that the authorities provided in sections 2 through 9 of the bill shall not be effective after September 30, 1984.

ADMINISTRATION VIEWS

At the time of filing this report, the Committee had not received a report from the Department of Agriculture setting forth the Administration's views on the legislation.

The following letter to Senator Robert Dole from Secretary of Agriculture, Jack Block, discusses some of the current activities of the Department of Agriculture in distributing Government-owned commodities to the needy:

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C.

Hon. ROBERT J. DOLE,
U.S. Senate, Washington, D.C.

DEAR BOB: The purpose of this letter is to inform you of some of our current activities regarding distribution of USDA commodities to the needy.

For over a year, States have been successfully distributing process American cheese to needy families through food banks, charitable institutions and local government agencies. Since the summer of 1982, a similar distribution effort for butter has been operating successfully. From an initial allocation of 30 million pounds of cheese, the effort has been consistently expanded. Currently, a total of 500 million pounds of cheese and 125 million pounds of butter have been made available for distribution through calendar year 1983. Through the efforts of the Food and Nutrition Service, States and local groups, significant momentum has been generated to distribute large quantities of cheese and butter. In addition, distribution of nonfat dry milk has been pilot tested in three States (Washington, Minnesota and Florida), and in Wayne County, Michigan. Data concerning displacement of fluid and powdered milk sales in these areas will be available over the next few weeks. A decision will then be made on distributing nonfat dry milk to needy individuals nationwide.

To date, States have ordered 344 million pounds of process cheese and 108 million pounds of butter. This represents an average of 12.3 pounds of cheese and 3.7 pounds of butter for each person below the poverty level. What makes these figures most impressive is that the local delivery of the cheese and butter to needy recipients has been accomplished utilizing State and local assets and volunteers. USDA has paid for the processing, packaging, and initial storing of these products, as well as transporting them to designated State locations. State governments and community organizations, however, have funded all of the local delivery costs. Groups ranging from the Salvation Army to the National Guard have contributed volunteers, equipment, and facilities to help distribute the products to the needy. Moreover, 45 States have provided full or partial funding of intrastate delivery costs. These efforts demonstrate that voluntarism in the public interest is a tremendous resource which we as a Nation must continue to develop.

In addition to the special cheese and butter distribution program to needy individuals, the Department continues to donate a broad range of surplus commodities, including dairy products, to charita-

ble institutions. These institutions include soup kitchens, hospitals, nursing homes, rehabilitation centers and some correctional facilities. We are also preparing legislation to extend our Section 416 (price-support) donations to include post-secondary schools, VA hospitals and penal institutions.

In summary, we see the special dairy distributions to be a tremendously successful partnership of Federal, State and local efforts that has greatly aided the elderly and needy citizens of this country. Based on feedback received to date, the program is highly popular with the recipients and well supported through State and local efforts. We are currently reviewing your recently introduced Domestic Commodity Distribution Act (S. 17). As soon as that review is completed, we will present specific comments and recommendation for your consideration. If you have additional questions at this time, please do not hesitate to contact us.

Sincerely,

JACK.

COST ESTIMATE

I.

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate, the Committee estimates that enactment of S. 17 will result in increased budget authority and outlays of $9 million in fiscal year 1983 and $91 million in fiscal year 1984. It is further estimated that net savings will result in the subsequent 3 years primarily from savings attributable to spoilage and storage costs. There are estimated to be savings of $1 million in fiscal year 1985, $12 million in fiscal year 1986, and $13 million in fiscal year 1987. The cost estimates provided by the Congressional Budget Office were the basis for the Committee's estimate.

II.

In accordance with the Congressional Budget Act of 1974, the Congressional Budget Office prepared the following cost estimate:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C. March 9, 1983.

Hon. JESSE A. HELMS,
Chairman, Committee on Agriculture, Nutrition and Forestry, U.S. Senate, Russell Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for S. 17, the Domestic Commodity Distribution and Food Assistance Act.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

JAMES BLUM,
(For Alice M. Rivlin, Director).

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

MARCH 9, 1983.

1. Bill number: S. 17.

2. Bill title: The Domestic Commodity Distribution and Food Assistance Act.

3. Bill status: As ordered reported by the Senate Committee on Agriculture, Nutrition and Forestry, March 3, 1983.

4. Bill purpose: This bill provides for the processing, transportation and distribution of surplus commodities in the Commodity Credit Corporation (CCC) inventory to provide food to needy persons. The bill authorizes the expenditure of up to $100 million per year, plus amounts equivalent to the savings in storage and spoilage costs, for these purposes, effective through the end of fiscal year 1984.

5. Estimated cost to the Federal Government: S. 17 provides direct spending authority to the CCC, as shown in the following table.

[By fiscal years, in millions of dollars]

	1983	1984	1985	1986	1987
Estimated budget authority	9	91	−1	−12	−13
Estimated outlays	9	91	−1	−12	−13

The costs of this bill fall within budget function 350.

Basis of Estimate: It is assumed for purposes of this estimate that S. 17 will be enacted by April 1, 1983 and implemented by July 1, 1983. Based on information from the U.S. Department of Agriculture (USDA), it is estimated that approximately 100 million pounds will be distributed in the remainder of fiscal year 1983 at a cost of about $10 million, primarily for processing and transportation costs. It is assumed that the full $100 million authorized will be used in 1984, in addition to amounts equal to savings in storage and spoilage costs. Outlays for these activities would occur largely in the year the funds are obligated.

In total, it is estimated that this program would disburse approximately 0.9–1.0 billion pounds of commodities by the end of 1984, resulting in annual storage savings of about $11 million in fiscal year 1985, with slight increases in the savings in subsequent years. (The 1985 figures in the above table include these savings, which are substantially offset by the remaining disbursements for 1984 processing and transportation costs.)

6. Estimated cost to State and local governments: Enactment of this bill is not expected to substantially affect the budgets of State and local governments.

7. Estimate comparison: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: Mary Ann Curtin.

10. Estimate approved by:

C. G. NUCKOLS,
(For James L. Blum,
Assistant Director for Budget Analysis).

Regulatory Impact Evaluation

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact that would be incurred in carrying out S. 17.

INDIVIDUALS AND BUSINESSES AFFECTED; PAPERWORK BURDEN

To the extent that S. 17 has any regulatory impact, that impact would be restricted primarily to the Secretary of Agriculture, State agencies, and participating recipient agencies.

Under the legislation, the Secretary of Agriculture would be required to issue guidelines to govern the distribution of the surplus CCC commodities made available under the bill.

During fiscal year 1982, approximately 11.1 million persons received bonus commodities through charitable organizations or in connection with the special dairy distribution.

It is anticipated that the provisions of S. 17 will result in broader distribution of surplus commodities during fiscal years 1983 and 1984.

Additionally, most of the 91,000 schools participating in the national school lunch program received surplus dairy commodities. These commodities were used in meals for approximately 23 million participating children. It is expected that schools will receive greater amounts of surplus commodities. Additionally, it is expected that the provision permitting national processing agreements will result in increased use of bonus commodities by schools and institutions.

Inasmuch as there is already in existence a rather extensive commodity distribution system under existing authorities, it would be expected that the Secretary would follow many of the accepted standards of practice in the implementation of this new authority. For instance, many of the organizations made eligible for the receipt of commodities for distribution are covered by other, existing authorities. Definitions of such organizations, for purposes of S. 17, should be similar to those already in existence.

The bill does not impose Federal standards on States, agencies, or groups unless and until they begin to participate in the commodity distribution program established by S. 17.

The legislation specifies that the Secretary shall minimize, to the maximum extent practicable, the regulatory, recordkeeping, and paperwork requirements imposed by the Secretary on eligible recipient agencies. In doing so, the Secretary is expected to keep the program as simple as possible while recognizing the need to assure accountability of States, recipient agencies, and processing firms that receive the commodities.

The Committee would expect that the primary increase in paperwork, if any, would be attributable to the expected increase in the volume of commodities distributed, rather than by some change in the type of paperwork required under the new authority.

Some increase in recordkeeping may result should the Secretary exercise his option to pay processors with payments-in-kind, rather than in cash.

Additionally, some degree of regulation may be necessary to specify what will constitute violations of the displacement or substitution prohibition which are included in the legislation.

New regulations will be required in order to establish processing agreements, under which private companies will process commodities into end-food products for use by eligible recipient agencies, with the expense of the processing to be borne by the recipient agencies.

With the exception of regulations governing the processing agreements, which should, in many cases, simplify the existing system, no other types of businesses should be affected by the legislation. All participating organizations must be public or nonprivate organizations.

Additionally, there will be minimal regulatory impact on individuals, although they will be the primary end recipients of the commodity assistance.

PRIVACY IMPACT

The legislation is expected to have no impact on the personal privacy of individuals.

IMPLEMENTATION

Amendment of program regulations, or expansion of existing regulations, will be necessary to implement the provisions of the new commodity distribution legislation. As noted earlier, it is expected that many present regulations and practices employed in other commodity distribution programs will be applicable for use for the commodities distributed under S. 17.

The legislation requires that not later than 45 days after enactment, the Secretary shall publish in the Federal Register an estimate of the types and quantities of commodities that the Secretary anticipates are likely to be made available during the remainder of fiscal year 1983. Prior to the beginning of fiscal year 1984, the Secretary shall publish an estimate of the commodities that the Secretary anticipates are likely to be made available during fiscal year 1984. Although these estimates are not binding on the Secretary, they will provide useful information on the volume and types of commodities that the Secretary anticipates will be available for distribution in the appropriate fiscal year.

CHANGES IN EXISTING LAW

In compliance with paragraph 12, of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown is roman):

AGRICULTURE AND CONSUMER PROTECTION ACT OF 1973

* * * * * * *

COMMODITY DISTRIBUTION PROGRAM

SEC. 4 (a) Notwithstanding any other provision of law, the Secretary may, during fiscal years 1982, 1983, 1984, and 1985, purchase and distribute sufficient agricultural commodities with funds appropriated from the general fund of the Treasury to maintain the traditional level of assistance for food assistance programs as are authorized by law, including but not limited to distribution to institutions, supplemental feeding programs wherever located, disaster areas, summer camps for children, the United States Trust Territory of the Pacific Islands, and Indians, whenever a tribal organization requests distribution of federally donated foods pursuant to section 4(b) of the Food Stamp Act of 1977. In providing for commodity distribution to Indians, the Secretary shall improve the variety and quantity of commodities supplied to Indians in order to provide them an opportunity to obtain a more nutritious diet.

(b) The Secretary may furnish commodities to summer camps for children in which the number of adults participating in camp activities as compared with the number of children under 18 years of age so participating is not unreasonable in light of the nature of such camp and the characteristics of the children in attendance.

(c) Whoever embezzles, willfully misapplies, steals or obtains by fraud any agricultural commodity or its products (or any funds, assets, or property deriving from donation of such commodities) provided under this section, or under section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431), section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), [or] section 709 of the Food and Agriculture Act of 1965 (7 U.S.C. 1446a-1), *or the Domestic Commodity Distribution and Food Assistance Act,* whether received directly or indirectly from the United States Department of Agriculture, or whoever receives, conceals, or retains such commodities, products, funds, assets, or property for personal use or gain, knowing such commodities, products, funds, assets, or property have been embezzled, willfully misapplied, stolen, or obtained by fraud shall, if such commodities, products, funds, assets, or property are of a value of $100 or more, be fined not more than $10,000 or imprisoned not more than five years, or both, or if such commodities, products, funds, assets, or property are of value of less than $100, shall be fined not more than $1,000 or imprisoned for not more than one year, or both.

* * * * * * *

AGRICULTURAL ACT OF 1949

DISPOSITION OF COMMODITIES TO PREVENT WASTE

SEC. 416. In order to prevent the waste of commodities whether in private stocks or acquired through price-support operations by the Commodity Credit Corporation before they can be disposed of in normal domestic channels without impairment of the price-support program or sold abroad at competitive world prices, the Commodity Credit Corporation is authorized, on such terms and under such regulations as the Secretary may deem in the public interest: (1) upon application, to make such commodities available to any

Federal agency for use in making payment for commodities not produced in the United States; (2) to barter or exchange such commodities for strategic or other materials as authorized by law; (3) in the case of food commodities to donate such commodities to the Bureau of Indian Affairs and to such State, Federal, or private agency or agencies as may be designated by the proper State or Federal authority and approved by the Secretary, for use in the United States in nonprofit school-lunch programs, in nonprofit summer camps for children, *in public or nonprofit post secondary schools, penal institutions, and Veterans Administration medical care facilities,* in the assistance of needy persons, and in charitable institutions, including hospitals, to the extent that needy persons are served. In the case of (3) the Secretary shall obtain such assurance as he deems necessary that the recipients thereof will not diminish their normal expenditures for food by reason of such donation. In order to facilitate the appropriate disposal of such commodities, the Secretary may from time to time estimate and announce the quantity of such commodities which he anticipates will become available for distribution under (3). The Commodity Credit Corporation may pay, with respect to commodities disposed of under this section, reprocessing, packaging, transporting, handling, and other charges accruing up to the time of their delivery to a Federal agency or to the designated State or private agency. In addition, in the case of food commodities disposed of under this section, the Commodity Credit Corporation may pay the cost of processing such commodities into a form suitable for home or institutional use, such processing to be accomplished through private trade facilities to the greatest extent possible. For the purpose of this section the terms "State" and "United States" include the District of Columbia and any territory or possession of the United States. Dairy products acquired by the Commodity Credit Corporation through price support operations may, insofar as they can be used in the United States in nonprofit school lunch and other nonprofit child feeding programs, in the assistance of needy persons and in charitable institutions, including hospitals, to the extent that needy persons are served, be donated for any such use prior to any other use or disposition. Notwithstanding any other provision of law, such dairy products may be donated for distribution to needy households in the United States and to meet the needs of persons receiving nutrition assistance under the Older Americans Act of 1965. Such dairy products may also be donated through foreign governments and public and nonprofit private humanitarian organizations for the assistance of needy persons outside the United States, and the Commodity Credit Corporation may pay, with respect to commodities so donated, reprocessing, packaging, transporting, handling, and other charges, including the cost of overseas delivery. In order to assure that any such donations for use outside the United States are coordinated with and complement other United States foreign assistance, such donations shall be coordinated through the mechanism designated by the President to coordinate assistance under the Agricultural Trade Development and Assistance Act of 1954 and shall

be in addition to the level of assistance programmed under that Act.

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